

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES E. JENKINS,

Plaintiff,

vs.

Civil Action 2:13-cv-0007
Judge Sargus
Magistrate Judge King

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

REPORT AND RECOMMENDATION

This Court reversed the decision of the Commissioner pursuant to Sentence 4 of 42 U.S.C. § 405(g) and remanded the matter to the Commissioner of Social Security for further proceedings. *Order*, Doc. No. 18. Final judgment was entered on December 10, 2013. *Judgment*, Doc. NO. 19. This matter is now before the Court on plaintiff's motion for an award of attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. *Motion for Fees*, Doc. No. 20.

Although the motion originally sought an award of \$4153.50, see *Motion for Fees*, the parties have now stipulated to an award of \$4,000.00. *Stipulation to Award EAJA Fees*, Doc. No. 22. This figure amounts to an effective hourly rate of \$160.00 for the 25 hours itemized by plaintiff's counsel. See Exhibit A, attached to *Motion for Fees*. The Court concludes that the hours itemized and the hourly rate are reasonable.

It is therefore **RECOMMENDED** that plaintiff's *Motion for Fees*, Doc. No. 20, be **GRANTED** to the extent that the parties have stipulated to the amount of the award. It is **SPECIFICALLY RECOMMENDED** that

plaintiff be awarded a fee under the Equal Access to Justice Act, 28 U.S.C. § 2412 in the total amount of \$4,000.00. It is understood that, if it determined that plaintiff owes no pre-existing debts to the United States that are subject to offset, the award will be made payable to plaintiff's attorney pursuant to plaintiff's fee assignment.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Fed'n of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

January 15, 2013

s/Norah McCann King
Norah McCann King
United States Magistrate Judge